

REBUTTAL OF MAP

THE MAP JUST SHOWN PURPORTS TO CLAIM THAT CELL TOWERS CANNOT BE LOCATED IN THE BLACK AREAS, THAT THERE IS NO LAND FOR CELL TOWERS AND THAT ACTON WILL BE SUED. THIS IS VERY MISLEADING AND IT IS ABSOLUTELY WRONG.

FIRST, THE EXISTING CELL TOWERS ON GREAT HILL IN SOUTH ACTON WERE ALLOWED BASED ON VARIANCES GRANTED BY ACTON'S ZONING BOARD OF APPEALS. THERE IS NOTHING IN ARTICLE #39 WHICH WOULD STOP THE BOARD OF APPEALS FROM GRANTING VARIANCES FROM THE 350 FOOT RESTRICTION IN ARTICLE #38 OR FROM THE 1000 FOOT RESTRICTION IN ARTICLE #39. IS IT HARDER TO SITE WITHIN THESE RESTRICTIONS? YES. IS IT IMPOSSIBLE TO SITE WITHIN THESE RESTRICTIONS AS THE MAP CLAIMS? ABSOLUTELY NOT. THE BOARD OF APPEALS AUTHORITY TO GRANT VARIANCES REMAINS INTACT.

SECONDLY, SOME OF THE AREAS BLACKED OUT ARE QUESTIONABLE. GREAT HILLS IS SHOWN BLACKED OUT EVEN THOUGH TWO CELL TOWERS ARE SITED THERE. ARTICLE #39 TAKES AWAY NO RIGHT TO BUILD ADDITIONAL CELL TOWERS ON GREAT HILL. INDEED, TO DENY FURTHER CELL TOWERS ON GREAT HILL WOULD LIKELY BE FOUND TO BE DISCRIMINATORY AND THUS BE OVERTURNED IN COURT. INDEED TO NOW DENY CELL TOWER SITINGS ON ANY ARC LAND, WHICH IS HOW GREAT HILL IS ZONED, MIGHT ALSO BE FOUND TO BE DISCRIMINATORY.

NEIGHBORING TOWNS OF CARLISLE WHERE WE TALKED TO GEORGE MANSFIELD AND LINCOLN WHERE WE TALKED TO MARK WHITEHEAD, HAVE FOUND THAT THEY MUST ALLOW CELL TOWERS OUTSIDE OF THEIR OVERLAY DISTRICTS BECAUSE OF PRECEDENTS THAT WERE SET. IN STOW THEY ARE SADLY LEARNING THE SAME LESSON.

THE LESSON FOR ACTON IS THAT THE MATTERS TO BE MOST CONCERNED ABOUT REGARDING LAWSUITS ARE PROCEDURAL MATTERS, NOT HEALTH, GAPS, AND PROTECTION OF HOMES AND SCHOOLS AS CLAIMED. IF ACTON WISHES TO RESERVE THE RIGHT ~~AND~~ TO MAKE DENIALS AND TO AVOID LAWSUITS, IT MUST PAY ATTENTION TO PROCEDURAL MATTERS, INCLUDING TAPING ALL CELL TOWER HEARINGS, OBTAINING ALL OF ITS INFORMATION IN OPEN HEARINGS WHERE THE APPLICANT CAN RESPOND, MAKING TIMELY DECISIONS AND NOT DISCRIMINATING AMONGST CARRIERS.

NOW SAYING NO ONE ELSE CAN GO ON ARC ZONED LAND AND NO ONE ELSE CAN GO ON GREAT HILL AS THE MAP CLAIMS IS CLEARLY DISCRIMINATORY. YOU WOULD THINK THAT THOSE THAT ARE CRYING OUT "ACTON WILL BE SUED" WOULD AT LEAST LOOK AT THE FCC ACT OF 1996, LOOK AT RELEVANT CASE LAW AND LOOK AT THE EXPERIENCES OF NEIGHBORING TOWNS. ALL OF IT SAYS THAT YOU CAN PROTECT HOMES AND SCHOOLS. ALL OF IT SAYS TO AVOID LAWSUITS YOU MUST TIGHTEN UP ON PROCEDURAL MATTERS— NOT ON THE

AREAS THE MAP AND ITS PROPONENTS CLAIM..

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BESIDES GREAT HILL THERE ARE OTHER AREAS BLACKED OUT THAT DON'T MAKE SENSE TO US. THERE IS MUCH OF POST OFFICE SQUARE BLACKED OUT WHERE AGAIN TWO CELL TOWERS ARE PRESENTLY SITED. THERE IS THE PAPER STORE BUILDING AREA ON ROUTE 27 NEAR MAYNARD. THERE IS A WOODWORKING BUSINESS AREA ALONG RIVER STREET. THERE IS THE GRACE LAND, THE SEWER PLANT AND THE ENTIRE POWDER MILL AREA. THERE IS CRAIG OFFICE PARK. THERE IS THE AUTO AUCTIONS AND OFFICE PARK 1 AREA ALONG ROUTE 2. THERE IS OFFICE PARK 2 AREA AT NAGOG WOODS, ALSO THE TRANSFER STATION. THERE IS POST OFFICE SQUARE AND THE ROBB REPORT BUILDING AREA. THERE IS ROUTE 2A LIMITED BUSINESS AREA. THERE IS THE GENERAL INDUSTRIAL AREA ON ROUTE 2A NORTH, ALSO THE OFFICE PARK 1 AT NAGOG. THERE IS COMMERCIAL LAND ALONG ROUTE 27 NORTH. ALL OF THESE ARE BLACKED OUT IN WHOLE OR IN PART WITHOUT EXPLANATION.

LASTLY, EVEN THE MAP AS DRAWN SHOWS ABOUT 2 % OF ACTON AVAILABLE FOR CELL TOWERS. IN LINCOLN BY OVERLAY 200 OUT OF 10,000 ACRES ARE AVAILABLE FOR CELL TOWERS AND THAT'S JUST 2 %. CARLISLE IS SIMILAR. BUT THERE IS AS WE HAVE SHOWN MUCH MORE THAN 2% OF ACTON AVAILABLE FOR CELL TOWERS.

THE CLAIM THAT ARTICLE #39 SHRINKS ACTON SO AS NOT TO PERMIT SITING OF CELL TOWERS IS CLEARLY MISLEADING AND IS ABSOLUTELY WRONG.